

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

RYAN PRICHARD,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-24-00548-JD
)	
TYSON STANEK,)	
)	
Defendant.)	

ORDER

On May 30, 2024, Plaintiff filed this prisoner civil rights action [Doc. No. 1]. The Court referred this action to United States Magistrate Judge Suzanne Mitchell under 28 U.S.C. § 636. [Doc. No. 4].

On May 31, 2024, Judge Mitchell issued an order for Plaintiff to file his complaint on the proper form and to either pay the filing fee or submit an in forma pauperis application. *See* [Doc. No. 5]; *see also* 28 U.S.C. § 1915. The order required Plaintiff to file his complaint on the proper form and to submit an in forma pauperis motion and/or pay the filing fee of \$405.00 by June 21, 2024. [Doc. No. 5 at 1]. Judge Mitchell warned Plaintiff that his failure to comply with the order will result in the dismissal of the action. *Id.* at 1–2.

When Plaintiff failed to comply with the order of May 31, 2024, Judge Mitchell issued a Report and Recommendation on July 3, 2024, recommending that the Court dismiss Plaintiff’s action without prejudice for his failure to comply with the Court’s rules and orders. [Doc. No. 6 at 1–2]. Judge Mitchell advised Plaintiff of his right to object to the Report and Recommendation by July 24, 2024, and explained that his failure

to timely object to the Report and Recommendation would waive appellate review of the factual and legal issues contained in the Report and Recommendation. *Id.* at 3. To date, Plaintiff has not filed an objection to the Report and Recommendation, made any effort to comply with Judge Mitchell's orders and the rules, or otherwise made any effort to prosecute this action.

“[A] party's objections to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review.” *United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996). By not objecting to a magistrate judge's report and recommendation, the parties waive their rights to challenge the legal and factual basis for the magistrate judge's decision. *See Ayala v. United States*, 980 F.2d 1342, 1352 (10th Cir. 1992) (holding that the plaintiffs “waived their right to appeal the magistrate's ruling” because they did not file any objections); *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991) (“Our waiver rule provides that the failure to make timely objection to the magistrate's findings or recommendations waives appellate review of both factual and legal questions.”).

With no objection being filed, and concurring with Judge Mitchell's findings and recommendations, the Court ACCEPTS the Report and Recommendation [Doc. No. 6]. For the reasons stated in the Report and Recommendation, the Court DISMISSES Plaintiff's action without prejudice. A separate judgment will follow.

IT IS SO ORDERED this 26th day of July 2024.



JODI W. DISHMAN
UNITED STATES DISTRICT JUDGE